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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK (BROOKLYN)

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
OZY MEDIA, INC.,  
  
Defendant.

Case No. 1:23-cr-00082-EK-2

Brooklyn, New York  
March 8, 2023  
11:32 a.m.

TRANSCRIPT OF ARRAIGNMENT HEARING  
BEFORE THE HONORABLE VERA SCANLON  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff:	Jonathan Siegel, Esq. Dylan Stern, Esq. U.S. Attorney's Office 271 Cadman Plaza East Brooklyn, NY 11201
For the Defendant:	n/a
Also Appearing:	CJA On Duty Grainne O'Neill, Esq.
Clerk:	S.G.
Court Recorder:	Electronic Sound Recording
Transcription Service:	Chris Hwang Abba Reporting PO Box 223282 Chantilly, Virginia 20153 (518) 302-6772

Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

1 (Call to order at 11:32 a.m.)

2 THE CLERK: Criminal cause for arraignment on the  
3 indictment, USA v. Ozy Media Corporation, Ozy Media actually,  
4 no corporation here, 23-CR-82.

5 Parties, please state your name for the record  
6 appearing for the Government?

7 MR. SIEGEL: Good morning, Your Honor. Jonathan  
8 Siegel and Dillon Stern for the United States.

9 THE CLERK: Thank you. And I guess for Ozy Media?

10 MS. O'NEILL: Well, I don't want to enter an  
11 appearance for Ozy Media, but I am the CJA on duty today and  
12 I'm happy to discuss what should happen.

13 THE CLERK: Okay.

14 MS. O'NEILL: Grainne O'Neill.

15 THE COURT: Okay, want to start with you or the  
16 Government?

17 MS. O'NEILL: We can start with me. I mean, I -- my  
18 what I think and I spoke with Deidre (phonetic). And the issue  
19 is that CJA funds can only be used to represent indigent  
20 people.

21 And I know that there is some discussion of whether  
22 corporations are people, but not for the purposes of CJA. This  
23 is a special program that is designed to help people have  
24 lawyers who otherwise couldn't afford them.

25 And I think here we have a corporation that is, A,

1 not a person, but B, you know, I just skimmed the indictment  
2 and it looks like they were bringing in millions of dollars.

3 So even if they were a person, it doesn't look like  
4 they would qualify, but I can't fill out a financial affidavit  
5 with someone that's not here and there's really nothing I can  
6 do pursuant to CJA.

7 THE COURT: All right, I mean, this is the point of  
8 signing the order with the limited representation to find out  
9 what your position is and understanding.

10 All right, so for the Government, we have the letter  
11 from you. Is that what you wanted to happen? Do you want to  
12 put any of that on the record? What is it your --

13 MR. SIEGEL: Yeah.

14 THE COURT: (Indiscernible) and then what you've now  
15 heard from CJA counsel?

16 MR. SIEGEL: Yes, Your Honor. So just to state the  
17 -- what --

18 THE COURT: Hang on. You should go back.

19 MR. SIEGEL: Oh, well.

20 THE COURT: Yeah.

21 THE CLERK: Sorry, about that. Thank you.

22 THE COURT: Sorry, thank you.

23 MR. SIEGEL: To state what for the record was  
24 probably obvious to all of us in the room, Ozy Media has not  
25 appeared. They were required to do so at 11:00 a.m. today

1 based on the summons.

2 Under Rule 11, there's a procedure for if an  
3 organizational defendant doesn't appear. It's 11 I believe  
4 (a) (4). If the organizational defendant does not appear, the  
5 Court automatically enters a plea of not guilty.

6 But then, the larger question -- so that from our  
7 view, that much is straightforward.

8 The larger question is where do we go from here?  
9 Under Rule 4, the Court is authorized to take any action  
10 authorized by U.S. law if the corporation fails to appear.  
11 Courts have found what that includes is that the Court can  
12 appoint counsel for the corporation.

13 Now Ms. O'Neill's point is well taken that may not be  
14 possible under the Criminal Justice Act. What courts have done  
15 depending on the circumstances is they have appointed counsel  
16 to be paid at the corporation's expense. In some instances,  
17 they have appointed counsel to act in a pro bono capacity.

18 I think it may make sense for the Court to take some  
19 time and think about who would be an appropriate attorney.  
20 This is a large case. We have over a million documents to  
21 produce and whoever represents Ozy is going to have to be  
22 producing documents that Ozy is required to produce.

23 So this is not the run-of-the-mill case that we have  
24 going through the courthouse. So it -- our position would be  
25 that the Court should give thought to who would be an

1 appropriate person and what would be the appropriate mechanism  
2 to appoint them, either at the corporation's expense or pro  
3 bono, but then to really promptly get someone who can stand up  
4 for Ozy, so that this case can move forward.

5 The other thing that we would ask that the Court do  
6 to make clear is the line between Carlos Watson, the  
7 co-defendant and Ozy Media has always been extremely blurry.  
8 And it seems that Carlos Watson and his attorneys are  
9 continuing to try to blur that line.

10 Last night, Mr. Watson's attorneys filed a letter  
11 purportedly on Ozy's behalf, asking for a plea of not guilty to  
12 be entered on behalf of Ozy or for an adjournment to be made  
13 for Ozy.

14 We would like the Court to make clear what is black  
15 letter law that whoever represents Ozy represents Ozy, the  
16 corporation, which is separate from Mr. Watson, and that Ozy  
17 does have at least one independent director, who should be the  
18 person who is speaking for Ozy, as opposed to their indicted  
19 CEO.

20 THE COURT: All right, you want to say anything?

21 MS. O'NEILL: I --

22 THE COURT: (Indiscernible.)

23 MS. O'NEILL: No, I'll just sit here.

24 THE COURT: Okay, all right. So the Government's  
25 application is that the Court consider who or what firm should

1 be appointed to represent the corporation. You want to make a  
2 submission on this? I mean --

3 MR. SIEGEL: I --

4 THE COURT: -- he was the one that was for this very  
5 quick turnaround.

6 MR. SIEGEL: Your Honor, I don't think it would be  
7 appropriate for us to recommend attorneys.

8 THE COURT: No, that's what I meant. This what -- I  
9 don't even know with this case, so what the parameters are for  
10 what you are envisioning would be the workload of the  
11 (indiscernible) million documents plus.

12 MR. SIEGEL: So we have -- we have over a million  
13 documents to produce.

14 THE COURT: Uh-huh.

15 MR. SIEGEL: Ozy itself was a going concern at least  
16 until recently and has documents of its own that need to be  
17 reviewed, but likely number in the many millions.

18 So this is a big-time consuming job. I know there  
19 are many members of the bar, who take on cases like this and  
20 are able to do cases like this.

21 And I think it's a question for the Court to find who  
22 is the appropriate person who has the availablity and the  
23 capacity to do this.

24 THE COURT: The financial circumstances are what?

25 MR. SIEGEL: Of the company?

1 THE COURT: Yes.

2 MR. SIEGEL: Mysterious is the answer.

3 THE COURT: Okay, well, all right, but your  
4 suggestion was that the company pay the attorney?

5 MR. SIEGEL: What courts --

6 THE COURT: (Indiscernible?)

7 MR. SIEGEL: What courts have generally done is that  
8 it is the corporation's responsibility to pay and the Court  
9 orders that.

10 If the company can make a showing that it is  
11 insolvent and cannot pay, then I think there needs to be a  
12 determination of if it is appropriate to appoint someone pro  
13 bono to do it, which courts have done.

14 THE COURT: All right, are there any upcoming dates  
15 in the case?

16 MR. SIEGEL: Yes, Your Honor. There's a status  
17 conference scheduled for both Mr. Watson and Ozy Media on April  
18 3rd.

19 Given that Ozy hasn't appeared, it's not clear  
20 whether the speedy trial clock has even started for Ozy, but in  
21 an abundance of caution, we would move that to the extent the  
22 speedy trial clock has started, that time be excluded from now  
23 until April 3rd.

24 That will allow time for the Court to identify and  
25 appoint counsel for Ozy and allow time for the parties to

1 confer about discovery, which is going to be large and  
2 complicated in this case.

3 And I'll note that Judge Pollak previously entered an  
4 order of excludable delay as to Defendant Watson up through  
5 April 3rd.

6 THE COURT: Okay, all right. We'll enter a plea of  
7 not guilty and without determining whether (indiscernible) or  
8 not, to the extent it has time to be excluded, because it  
9 sounds like an awful lot of discovery at a minimum. And  
10 (indiscernible) yet or no nothing?

11 MR. SIEGEL: There's been no motion or ruling on  
12 that.

13 THE COURT: Okay. All right, so time excluded  
14 through the conference with the district judge for Ozy Media as  
15 it was for Watson.

16 And certainly the public's interest and interest of  
17 justice and the corporation's interest (indiscernible) figure  
18 out what's going on. Okay, anything else?

19 MR. SIEGEL: Not from the Government, thank you, Your  
20 Honor.

21 THE COURT: Okay, you're off the hook.

22 MS. O'NEILL: Thank you, Judge.

23 UNIDENTIFIED SPEAKER: Thank you.

24 THE COURT: (Indiscernible) I think the application  
25 as signed was just a representation through this appearance.



1 MS. O'NEILL: Sounds good.

2 THE COURT: All right.

3 MS. O'NEILL: Thank you.

4 MR. SIEGEL: Thank you, Your Honor.

5 UNIDENTIFIED SPEAKER: Great, thank you.

6 (Recess taken at 11:41 a.m., recommencing at 11:52 a.m.)

7 THE CLERK: We're back on the record, USA v. Ozy  
8 Media. Second call.

9 MR. SIEGEL: Your Honor, Jonathan Siegel for the  
10 United States. Good morning.

11 THE COURT: All right, we're in the strange position  
12 of not having counsel or an appearance, but since the  
13 obligation under 5(f) rests with the Government, the Government  
14 is reminded of its 5(f) obligations under the Federal Rules of  
15 Criminal Procedure, as well as Brady v. Maryland and its  
16 progeny and that line of cases.

17 The Government has to disclose to the Defense all  
18 information favorable to an accused that's material either to  
19 guilt or to punishment and known to the prosecution.

20 And prosecution shall disclose such information to  
21 the defense promptly after its existence becomes known to the  
22 prosecution so the defense can make effective use of the  
23 information in the preparation of its case. The Court will  
24 enter a more detailed order in this regard.

25 So, for the Government, do you understand your

1 obligations under 5(f) and Brady?

2 MR. SIEGEL: Yes, Your Honor.

3 THE COURT: And will the Government comply?

4 MR. SIEGEL: Yes, Your Honor.

5 THE COURT: Will the Government read the order that's  
6 entered and comply with it?

7 MR. SIEGEL: Yes, Your Honor.

8 THE COURT: All right, I will note, even though we're  
9 putting on the record, this may be something that should be  
10 raised when there is counsel so that counsel is aware of these  
11 obligations and the Government's commitment to comply with  
12 them.

13 Obviously, we expect counsel to be familiar with it,  
14 but having it said on the record, I think, is a helpful  
15 exercise. So when we get the counsel issue resolved, you can  
16 re-visit this. All right.

17 MR. SIEGEL: Thank you very much, Your Honor.

18 THE COURT: Anything else?

19 MR. SIEGEL: No, thank you.

20 THE COURT: All right. Thank you.

21 THE CLERK: Okay.

22 (Proceedings concluded at 11:54 a.m.)

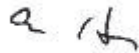
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**CERTIFICATE**

I, Chris Hwang, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

March 9, 2023

Chris Hwang

Date

Court Reporter